

REMARKS

This Application has been carefully reviewed in light of the Decision on Appeal issued March 31, 2009. Claims 1-26 are pending in this Application. In order to advance prosecution of this Application, Claims 1-8, 11-15, and 17-26 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

The Board of Patent Appeals and Interferences issued a Decision on Appeal March 31, 2009 affirming the rejection of the claims asserted by the Examiner in the Final Action of September 6, 2006. Applicant respectfully requests continued examination of this Application so that the Examiner can reconsider the rejection of the claims in view of the amendments and remarks provided herein.

Claims 1-3, 9, 11-14, 16-19, and 22-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Merchant, et al. Independent Claims 1, 11, 17, and 22 recite in general an ability to store each original data entry in its respective one of the plurality of nodes, generate a replicated data entry from each original data entry at its respective one of the plurality of nodes, storing each replicated data entry in a node different from where its associated original data entry is stored where each original data entry includes information as to a location of its associated replicated data entry and each replicated data entry includes information as to a location of its associated original data entry, identify at a particular one of the plurality of nodes a failure of another one of the plurality of nodes, determine whether the particular one of the plurality of nodes includes an original data entry or a replicated data entry having information as to the location of a replicated data entry or an original data entry respectively that matches an identified failed node, and

generate a re-replicated data entry in the particular one of the plurality of nodes for storage at a separate working one of the plurality of nodes in response to the information matching the identified failed node.

By contrast, the portions of the Merchant, et al. application cited by the Examiner specifically discuss removal of data from a faulty node. Thus, the Merchant, et al. application does not disclose re-replication of a data entry from a non-failed node for storage in a separate working node in response to identification of a failed node as provided in the claimed invention. The Merchant, et al. application is concerned with relocating data from a node that is being selected for removal. There is no disclosure in the Merchant, et al. application that data in one node includes information as to where its associated replicated data is stored in another node and vice versa. Accordingly, the system of the Merchant, et al. application is not capable of performing the comparison of an identity of a failed node to location information provided by data entries in order to determine whether a replicated data entry is to be generated for storage in a separate working node as required by the claimed invention. As a result, the Merchant, et al. application fails to disclose the features of the claimed invention. Therefore, Applicant respectfully submits that Claims 1-3, 9, 11-14, 16-19, and 22-24 are patentably distinct from the Merchant, et al. application.

Claims 4-8, 10, 15, 20, 21, 25, and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Merchant, et al. in view of Ohran, et al. Independent Claim 1, from which Claims 4-8, and 10 depend; Independent Claim 11, from which Claim 15 depends; Independent Claim 17, from which Claims 20 and 21 depend; and Independent Claim 22, from which

Claims 25 and 26 depend have been shown to be patentably distinct from Merchant, et al.. Further, the Ohran, et al. patent does not disclose any additional material combinable with the Merchant, et al. patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 4-8, 10, 15, 20, 21, 25, and 26 are patentably distinct from the proposed Merchant, et al. - Ohran, et al. combination.

Please charge an amount of \$810.00 in satisfaction of the request for continued examination fee under 37 C.F.R. §1.17(e) to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

CONCLUSION

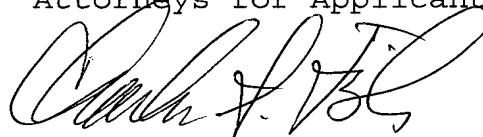
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicant respectfully requests full allowance of all pending claims.

The Commissioner is hereby authorized to charge any applicable fees or credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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